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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,291	12/14/2001	George E. Berkey	SP00-386	7658

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CORNING INCORPORATED  
SP-TI-3-1  
CORNING, NY 14831

EXAMINER

HOFFMANN, JOHN M

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/023,291

Applicant(s)

BERKEY ET AL.

Examiner

John Hoffmann

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 17-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-16 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g. 6) ☐ Other:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 8-20-02 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

The information disclosure statement filed 08-20-02 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it fails to list the dates for references AR and AS. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The elected claims are directed to a method, not to the fiber.

### ***Claim Objections***

Claims 7-8 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 1 requires the glass body to be pre-deuterated at the time of consolidation. However claims 7-8 require that prior to the consolidated step the glass body be deuterated. Therefore, claims 7-8 would have the consolidation be done post-deuteration - this is impossible because claim 1 requires it be pre-deuterated. Thus claims 7-8 do not further limit claim 1. Claims 7-8 are not further examined on their merits.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6, 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 refers to "pre-deuterated". There is no definition for the term. Examiner could not find the term in any prior art. Line 10 of claim 1 should begin with "one".

Claims 7-8 refers to "glass bodies" there is no antecedent basis for "glass bodies". It is unclear if claims 7-8 requires there be bodies, or if there are a plurality of bodies, then one is deuterated.

Claim 10 refers to "the soot body using glass plugs". There is no antecedent basis for any body using glass plugs. One would be confused as to whether this was the body of claim 1, or the "further" created soot structure of claim 10.

Likewise for claim 11: there no antecedent basis for "the soot body using pre-deuterated glass plugs".

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 9, 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berkey 5917109.

Berkey discloses the invention at col. 8, line 46 to col.9, line 5. It is noted that a tube can be a plug: see present specification, paragraph 134, line 3. Berkey does not disclose that the plug is ever deuterated. It would have been obvious to never deuterate the Berkey plug, because there is no disclosure to do so, and because it would take extra time and money to deuterate. Any glass that has never been deuterated is clearly a pre-deuterated glass because it is prior to any deuteration. Claim 2 is clearly met in as much as the present invention meets it.

Claim 3 "further" comprises making another glass preform. It would have been obvious to perform the Berkey method multiple times and simultaneously so as to make as much fiber as quickly as possible. This would result in two preforms being formed with sealed centerline holes simultaneously with each other.

Likewise for claim 9- it would have been obvious to make additional preforms - this would require further depositing a further soot on a further handle. It would have been obvious to use glass - prior to any deuteration thereof - because there is no disclosure of deuteration, and to avoid the cost and time needed for deuteration.

Claims 12 and 15: see col. 9, lines 24-27.

Claims 13-14 are met by another but similar process disclosed at figures 1-3 and col. 4, line 46 to col. 5, line 32. 10 is the substrate, 13 shows the depositing of soot, 19 is the inserted glass body/plug in to the bore from which the substrate is removed. Figure 3 shows the overcladding of claim 13. The consolidation of claim 14 is disclosed at col. 6, lines 46-56.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berkey as applied to claim 1 above, and further in view of Freund 4685945.

Berkey does not teach Deuteration of the fiber. However, Berkey discusses reducing water/hydroxyl contamination: col. 2, lines 25-28 and col. 3, lines 19-24. Freud is directed to improving fibers of low-hydroxyl fibers- see for instance, col. 2, lines 57-63. It would have been obvious to perform the Freund method (see claim 1) on the Berkey fiber, for the advantages that Freund discloses.

***Allowable Subject Matter***

Claims 4-6, and 10-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art does not disclose a step of plugging one end with a glass body, along with a further step of plugging both ends -for a total of at least 3 plugs.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Burrus and the Japanese abstract are cited as being pertinent to the present disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is 703-308-0469. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7115 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

  
JOHN HOFFMANN  
PRIMARY EXAMINER  
GROUP 1300